IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1630 OF 2005

Kanthan L. Andrews ...Petitioner

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. Kiran Makasare, Advocate for Petitioner

Ms. S.V. Gajare, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 30TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner is seeking quashing of C.R. No. 36 of 2005 of Islampur police Station, District Sangli. The said case is under Section 420 r.w. 34 of I.P.C. The learned A.P.P. has stated that investigation in the said case is over and the charge sheet has been filed on 11.7.2005.

3. On perusal of the F.I.R. and the other material in the present case, it is seen that the present petitioner met the complainant on 2.11.2004. The petitioner informed the complainant that military

work of barbed wire fencing was going on in the Kutch Gujrat region on the Indian Pakistan border and for that purpose barbed wire worth Rs.2.00 Crores was required. The petitioner informed the complainant that if he got his factory registered he would get the contract. The petitioner further informed the complainant that the petitioner and his friend would get the registration work of the complainant done and they would get the contract for the complainant. The petitioner further informed the complainant that the expenses for registration and other work would be Rs.4,00,000/-. The petitioner showed the complainant the documents relating to tenders of related work. On all these facts being told by the petitioner to the complainant, the complainant agreed to supply the barbed wire for fencing. As per the inducement offered by the petitioner, the complainant initially deposited an amount of Rs.15,000/- into the account of the petitioner. The said amount was deposited into the account of the petitioner in ICICI Bank. Thereafter, various other amounts have been paid by the complainant to the petitioner. The total amount paid by the complainant to the petitioner came to Rs.2,35,000/-. The petitioner told the complainant that he should pay the amount and he would send the receipt relating to the payment of the money at later date. However, even though Rs.2,35,000/- was deposited by the complainant into the account of the

petitioner, no receipts were issued by the petitioner and the work of registration and getting the contract was also not done by the petitioner.

4. The case of the complainant is corroborated by the Bank witnesses i.e. Bank Managers of ICICI Banks at Pune and Kolhapur Branches as well as the other witnesses.

5. On perusal of complaint and the other material gathered during the investigation of this case, prima facie, it appears that the petitioner induced the complainant to part with money by giving false promises with an intention to cheat the complainant.

6. The learned advocate for the petitioner has placed reliance on the agreement between the complainant and the other four accused in the present case. He has pointed out that the petitioner is not party to the said agreement and the agreement in relation to the barbed wire fencing was only between the complainant and the other co-accused and not the petitioner. The learned advocate for the petitioner has also placed reliance on the documents which show that four other accused are actually concerned with the dealing and the present petitioner is not involved in the said dealing. It is pertinent to note that this case is being considered at the

initial stage and not after the evidence has been led during the course of trial. The Supreme Court in the case of **State of Orissa Vs. Debendra Nath Padhi reported in AIR 2005 SC 359,** has observed that the documents produced by the accused persons cannot be looked into at the initial stage. In such case, in my view, it would be necessary to lead evidence in order to prove the contents of these documents for which trial would be necessary.

7. On going through the complaint and the other material in the present case, I, prima facie, find that there is sufficient material to proceed in respect of the present petitioner, hence, no case is made out for quashing of C.R. No 36 of 2005.

8. Application is rejected.

9. It is clarified that the observations made in this order shall not influence the trial Court while deciding the trial.

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